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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

11 **ROEM BRUEGAS QUINCENA**
12 **1246 Bee Balm Road**
13 **Hemet, CA 92545**

14 **Registered Nurse License No. 464413**

15 Respondent.

Case No. 2011-819

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

16 **FINDINGS OF FACT**

17 1. On or about April 5, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her official
18 capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer
19 Affairs, filed Accusation No. 2011-819 against Roem Bruegas Quincena (Respondent) before the
20 Board of Registered Nursing. (Accusation attached as Exhibit A.)

21 2. On or about March 31, 1991, the Board of Registered Nursing (Board) issued
22 Registered Nurse License No. 464413 to Respondent. The Registered Nurse License expired on
23 January 31, 2011, and has not been renewed.

24 3. On or about April 5, 2011, Respondent was served by Certified and First Class Mail
25 copies of the Accusation No. 2011-819, Statement to Respondent, Blank Notice of Defense,
26 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
27 and 11507.7) at Respondent's address of record which, pursuant to California Code of
28 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
which was and is: 1246 Bee Balm Road, Hemet, CA 92545.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On or about April 26, 2011, the aforementioned documents were returned by the U.S.
5 Postal Service marked "Not deliverable as addressed, unable to forward." The address on the
6 documents was the same as the address on file with the Board. Respondent failed to maintain an
7 updated address with the Board and the Board has made attempts to serve the Respondent at the
8 address on file. Respondent has not made himself available for service and therefore, has not
9 availed himself of his right to file a notice of defense and appear at hearing.

10 6. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
14 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
15 may nevertheless grant a hearing.

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
18 2011-819.

19 8. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
23 respondent.

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 2011-819, finds
that the charges and allegations in Accusation No. 2011-819, are separately and severally, found
to be true and correct by clear and convincing evidence.

1 10. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$1,365.00 as of May 2, 2011.

4 **DETERMINATION OF ISSUES**

5 1. Based on the foregoing findings of fact, Respondent Roem Bruegas Quincena has
6 subjected his Registered Nurse License No. 464413 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
9 Nurse License based upon the following violations alleged in the Accusation which are supported
10 by the evidence contained in the Default Decision Evidence Packet in this case.:

11 a. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
12 Respondent exhibited unprofessional conduct for illegally obtaining a controlled substance on
13 May 5, 2008, while working as a registered nurse in the Intensive Care Unit at Hemet Valley
14 Medical Center, and for failing to comply with the Board's MAXIMUS Diversion Program as he
15 agreed to do;

16 b. Respondent is subject to disciplinary action under section 2761(d) of the Code for
17 failing to comply with section 2770.11(a) in that Respondent's failure to comply with the Board's
18 MAXIMUS Diversion Program resulted in his termination from the program as a public safety
19 risk;

20 c. Respondent is subject to disciplinary action under section 2762(a) of the Code in that
21 on or about May 5, 2008 while working as a registered nurse in the Intensive Care Unit at Hemet
22 Valley Medical Center, Respondent illegally obtained or possessed Dilaudid, a controlled
23 substance, without a prescription as evidenced by his admission;

24 d. Respondent is subject to disciplinary action under section 2762(b) of the Code in that
25 Respondent used alcohol to an extent as to be dangerous to himself or others, as evidenced by his
26 admissions during his intake assessment at MAXIMUS.

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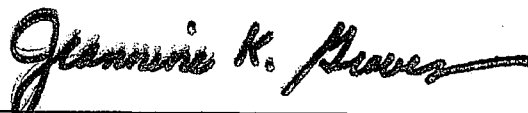
ORDER

IT IS SO ORDERED that Registered Nurse License No. 464413, heretofore issued to Respondent Roem Bruegas Quincena, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 22, 2011.

It is so ORDERED June 23, 2011.



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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Attachment:
Exhibit A: Accusation

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Exhibit A

Accusation

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Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 Case No. **2011-819**

13 In the Matter of the Accusation Against:

14 **ROEM BRUEGAS QUINCENA**
1246 Bee Balm Road
Hemet, CA 92545

A C C U S A T I O N

15 **Registered Nurse License No. 464413**

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about March 31, 1991, the Board of Registered Nursing issued Registered
25 Nurse License Number 464413 to Roem Bruegas Quincena (Respondent). The Registered Nurse
26 License was in full force and effect at all times relevant to the charges brought herein and expired
27 on January 31, 2011, and has not been renewed.

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4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2811(b) of the Code states:

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7. Section 482 of the Code states:

(a) Considering the denial of a license by the board under Section 480; or

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

1 8. Section 2761 of the Code states:

2 The board may take disciplinary action against a certified or licensed nurse or
3 deny an application for a certificate or license for any of the following:

4 (a) Unprofessional conduct.

5

6 (d) Violating or attempting to violate, directly or indirectly, or assisting in or
7 abetting the violating of, or conspiring to violate any provision or term of this
8 chapter or regulations adopted pursuant to it.

9

10 9. Section 2762 of the Code states:

11 In addition to other acts constituting unprofessional conduct within the meaning
12 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
13 licensed under this chapter to do any of the following:

14 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a
15 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself,
16 or furnish or administer to another, any controlled substance as defined in Division 10
17 (commencing with Section 11000) of the Health and Safety Code or any dangerous
18 drug or dangerous device as defined in Section 4022.

19 (b) Use any controlled substance as defined in Division 10 (commencing with
20 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
21 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
22 dangerous or injurious to himself or herself, any other person, or the public or to the
23 extent that such use impairs his or her ability to conduct with safety to the public the
24 practice authorized by his or her license.

25

26 10. Section 2770.11 of the Code states:

27 (a) Each registered nurse who requests participation in a diversion program
28 shall agree to cooperate with the rehabilitation program designed by a committee.
Any failure to comply with the provisions of a rehabilitation program may result in
termination of the registered nurse's participation in a program. The name and
license number of a registered nurse who is terminated for any reason, other than
successful completion, shall be reported to the board's enforcement program.

(b) If a committee determines that a registered nurse, who is denied
admission into the program or terminated from the program, presents a threat to
the public or his or her own health and safety, the committee shall report the name
and license number, along with a copy of all diversion records for that registered
nurse, to the board's enforcement program. The board may use any of the records
it receives under this subdivision in any disciplinary proceeding.

1 11. Section 2770.12 of the Code states:

2 (a) After a committee in its discretion has determined that a registered nurse
3 has successfully completed the diversion program, all records pertaining to the
4 registered nurse's participation in the diversion program shall be purged.

5 (b) All board and committee records and records of a proceeding pertaining
6 to the participation of a registered nurse in the diversion program shall be kept
7 confidential and are not subject to discovery or subpoena, except as specified in
8 subdivision (b) of Section 2770.11 and subdivision (c).

9 (c) A registered nurse shall be deemed to have waived any rights granted by
10 any laws and regulations relating to confidentiality of the diversion program, if he
11 or she does any of the following:

12 (1) Presents information relating to any aspect of the diversion program
13 during any stage of the disciplinary process subsequent to the filing of an
14 accusation, statement of issues, or petition to compel an examination pursuant to
15 Article 12.5 (commencing with Section 820) of Chapter 1. The waiver shall be
16 limited to information necessary to verify or refute any information disclosed by
17 the registered nurse.

18 (2) Files a lawsuit against the board relating to any aspect of the
19 diversion program.

20 (3) Claims in defense to a disciplinary action, based on a complaint that
21 led to the registered nurse's participation in the diversion program, that he or she
22 was prejudiced by the length of time that passed between the alleged violation and
23 the filing of the accusation. The waiver shall be limited to information necessary
24 to document the length of time the registered nurse participated in the diversion
25 program.

26 COST RECOVERY

27 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licentiate found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

29 DRUG

30 13. Dilaudid, a brand name for hydromorphone, is a Schedule II controlled substance as
31 designated by Health and Safety Code Section 11055(b)(1)(K) and is a dangerous drug pursuant
32 to Business and Professions Code section 4022. Dilaudid is a narcotic analgesic prescribed for
33 the relief of moderate to severe pain.

FACTUAL ALLEGATIONS

14. On May 20, 2008, Respondent contacted the Board of Registered Nursing's MAXIMUS Diversion Program to voluntarily participate in the program for mental health/alcohol addiction issues. During his intake assessment at MAXIMUS, Respondent admitted that he diverted Dilaudid at work with the intent to kill himself. Specifically, Respondent admitted that on May 5, 2008, while working as a registered nurse in the Intensive Care Unit at Hemet Valley Medical Center, he obtained a syringe containing 30 mg of Dilaudid with the intent to commit suicide. Thereafter, Respondent decided he did not want to kill himself so he poured the Dilaudid out into the sink. Respondent was then confronted by a co-worker about his removal of the medication. Respondent admitted to his co-worker that he obtained the Dilaudid and that he had intended to use it. Respondent was sent home.

15. During his intake assessment at MAXIMUS, Respondent also admitted that on or about May 6, 2008, he drank alcohol and used Tylenol PM due to his distress. Respondent admitted that he intended to kill himself by sitting in his vehicle in his garage and inhaling the fumes. Respondent was found in distress and taken to the Emergency Room. Thereafter, Respondent was transferred to Canyon Ridge psychiatric facility on a psychiatric hold under Welfare and Institutions Code section 5150 (5150 hold). Respondent also reported during his MAXIMUS interview that he had drank alcohol daily for the previous month in order to "make his memory forget."

16. By enrolling in MAXIMUS, Respondent agreed to abstain from the use of alcohol and all other mind-altering drugs, agreed to enter an inpatient/residential Chemical Dependency Treatment Program immediately, agreed not to return to work until authorized to do so, agreed to submit copies of prescriptions for all prescription medications he was currently taking, agreed to attend weekly 12-step meetings, agreed to attend Nurse Support Group (NSG) meetings, agreed to contact his Clinical Case Manager (CCM) no less than once per month, agreed to submit monthly compliance reports and agreed to submit to urine tests to monitor drug and alcohol usage, among other terms.

1 17. Respondent participated and progressed in MAXIMUS, with some minor
2 noncompliance. Respondent was approved to return to work at San Geronimo Hospital in San
3 Bernardino. On July 29, 2010, Respondent did not check in with FirstLab, the contract company
4 that performs the drug testing for MAXIMUS. Respondent's CCM then contacted the NSG
5 leader and discovered that Respondent was not showing up for work, was losing weight, and
6 appeared distracted. The NSG leader made several attempts to contact Respondent, however, he
7 could not be reached. Due to Respondent's history of suicidal ideations, his CCM requested the
8 Murrieta Police Department conduct a wellness check. The police discovered Respondent at his
9 residence. Respondent was upset, had a weapon, and admitted to officers that he had a suicide
10 planned for the night of July 29, 2010. Respondent was taken to the hospital by the Murrieta
11 Police Department and placed on a 5150 hold.

12 18. On or about August 10, 2010, Respondent failed to check in with FirstLab and missed
13 his drug test on August 11, 2010. Respondent's CCM attempted to contact Respondent about the
14 missed call, however, Respondent's phone went straight to voicemail. Respondent's CCM
15 contacted the Murrieta Police Department and requested a wellness check, however, she was
16 informed by the police that they had already been to Respondent's residence that morning to
17 check on him due to two accidental 911 hang-up calls. Thereafter, on or about August 10, 2010,
18 the Diversion Evaluation Committee (DEC) mandated Respondent to enroll in an inpatient
19 treatment program. Respondent again failed to check in with FirstLab and missed a drug test on
20 August 12, 2010. On or about August 13, 2010, Respondent's CCM received a voicemail from
21 Respondent's doctor's office informing the CCM that they had attempted to contact Respondent
22 and felt that the police should be called to perform a wellness check. Respondent failed to enroll
23 in the inpatient program as required and failed to return calls to his CCM.

24 19. On August 16, 2010, Respondent was terminated from MAXIMUS for non-
25 compliance and deemed a public risk due to his mental health instability, missed drug testing,
26 missed calls, and refusal to follow the directions for inpatient treatment.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct)

3 20. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
4 Respondent exhibited unprofessional conduct, as set forth in paragraphs 14 through 19, above,
5 which are incorporated herein by reference, for failure to comply with the Board's diversion
6 program as he agreed to do.

7 **SECOND CAUSE FOR DISCIPLINE**

8 (Violation of the Chapter)

9 21. Respondent is subject to disciplinary action under section 2761(d) of the Code for
10 failure to comply with section 2770.11(a), as set forth in paragraphs 14 through 19, above, which
11 are incorporated herein by reference, for failure to comply with the Board's diversion program.

12 **THIRD CAUSE FOR DISCIPLINE**

13 (Illegally Obtained or Possession a Controlled Substance)

14 22. Respondent is subject to disciplinary action under section 2762(a) of the Code in that
15 Respondent illegally obtained or possessed Dilaudid, a controlled substance, without a
16 prescription, as set forth in paragraphs 14 through 19, above, which are incorporated herein by
17 reference.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Use of Alcohol in a Manner Dangerous to Self or Others)

20 23. Respondent is subject to disciplinary action under section 2762(b) of the Code in that
21 Respondent used alcohol to an extent as to be dangerous to himself or others, as set forth in
22 paragraphs 14 through 19, above, which are incorporated herein by reference.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Registered Nursing issue a decision:

26 1. Revoking or suspending Registered Nurse License Number 464413, issued to Roem
27 Bruegas Quincena;

1 2. Ordering Roem Bruegas Quincena to pay the Board of Registered Nursing the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.

5
6 DATED: 4/5/11

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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